

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF MISSISSIPPI  
EASTERN DIVISION

DR. JEROME SMITH

PLAINTIFF

vs.

Civil Action No. 1:97cv226-D-A

OKOLONA MUNICIPAL SEPARATE  
SCHOOL DISTRICT, et al.

DEFENDANTS

MEMORANDUM OPINION

Presently before the court are the motions of the plaintiff, Dr. Jerome Smith, for a temporary restraining order (“TRO”) and for a preliminary injunction. Finding that the motions are not well taken, the court shall deny them.

The plaintiff is the former principal of the Okolona High School. On February 17, 1997, defendant Gerald Hagan informed Dr. Smith that his employment contract would not be renewed for the 1997-98 school year. Dr. Smith exercised his right pursuant to state statutory law, known as the School Employment Procedures Act (“SEPA”), to obtain a list of reasons for his nonrenewal and a hearing before a hearing officer. Miss. Code Ann. § 37-9-101, et seq. The appointed hearing officer, the Honorable Michael Malski, conducted a hearing during the month of May and issued a Report and Recommendation to the board on May 30, 1997. After receipt of the hearing officer’s Report and Recommendation, the Board notified Dr. Smith on June 26, 1997 of its final decision not to renew his contract. Under Mississippi statutory law, the plaintiff then had twenty (20) days of the receipt of the final decision of the board within which to petition the Chancery Court for judicial review of the Board’s decision. Miss. Code Ann. § 37-9-113 .

Dr. Smith chose not to file such an appeal, and instead filed the present action in this court on July 14, 1997. In his complaint, he charges the defendants with violations of his rights under the First and Fourteenth Amendments to the United States Constitution, as well as violations of state law. Additionally, the plaintiff has filed motions before this court for preliminary injunctive relief. More specifically, the plaintiffs requests that this court enter an order directing the defendants to

reinstate him as principal of the Okolona High School pending the final disposition of this matter. The undersigned conducted a hearing on the plaintiff's motions on July 29, 1997, and is now prepared to rule upon those motions.

## II. Discussion

### . Standard for preliminary injunctive relief

In making its ruling on the propriety of a preliminary injunction, this court is bound by the considerations contained in the decision of Canal Authority of Florida v. Callaway and its progeny. Pursuant to this authority, the plaintiff in this matter has the burden of demonstrating to this court four specific criteria:

- (1) a substantial likelihood that plaintiff will prevail on the merits;
- (2) a substantial threat that plaintiff will suffer irreparable injury if the injunction is not granted;
- (3) that the threatened injury to plaintiff outweighs the threatened harm the injunction may do to defendant, and;
- (4) that granting the preliminary injunction will not disserve the public interest.

Rodriguez v. United States, 66 F.3d 95, 97 (5<sup>th</sup> Cir. 1995); Hull v. Quitman County Bd. of Educ., 1 F.3d 1450, 1452 (5<sup>th</sup> Cir. 1993); Canal Authority of Florida v. Callaway, 489 F.2d 567 (5th Cir.1974).

It is incumbent upon the plaintiff to demonstrate all of the four factors, and the failure to demonstrate any one of the four is sufficient to the court to deny the issuance of an injunction.

Sierra Club v. FDIC, 992 F.2d 545 (5th Cir.1993). "A preliminary injunction is an extraordinary remedy. It should only be granted if the movant has clearly carried the burden of persuasion on all four Callaway prerequisites. The decision to grant a preliminary injunction is to be treated as the exception rather than the rule." Cherokee Pump & Equipment Inc. v. Aurora Pump, 38 F.3d 246, 249 (5<sup>th</sup> Cir. 1994) (citing Mississippi Power & Light v. United Gas Pipe Line Co., 760 F.2d 618 (5th Cir.1985)). The court now turns to address whether the plaintiff has carried his burden in this regard.

### . Showing of irreparable harm

The court finds that the plaintiff has failed to satisfy the second Canal Authority

consideration, a demonstration of irreparable harm. As the defendants correctly note, the United States Supreme Court has determined that a mere loss of income and reputation is an insufficient ground upon which to base irreparable harm:

Assuming for the purpose of discussion that respondent had made a satisfactory showing of loss of income and had supported the claim that her reputation would be damaged as a result of the challenged agency action, we think the showing falls far short of the type of irreparable injury which is a necessary predicate to the issuance of a temporary injunction in this type of case.

Sampson v. Murray, 415 U.S. 61, 88, 94 S.Ct. 937, 951, 39 L.Ed.2d 166 (1974). The Fifth Circuit has consistently followed this directive and has reversed, as an abuse of the district court's discretion, awards of injunctive relief premised on nothing more than a loss of income and damage to reputation:

Maintenance of the status quo is only a sometimes concomitant of preventing irreparable harm never the touchstone for such injunctive relief. Indeed, the concept itself is an elusive one at best. What the status quo is to the plaintiff - a job opening - is the antithesis of status quo to the defendant, whose normal administrative procedures have been interdicted.

Parks v. Dunlop, 517 F.2d 785, 786 (5<sup>th</sup> Cir. 1975); see also White v. Carlucci, 862 F.2d 1209, 1212 (5<sup>th</sup> Cir. 1989); Howard v. Town of Jonesville, 935 F. Supp. 855, 859 (W.D. La. 1996) ("Finally, plaintiff's largely conclusory allegations that her continuing separation from her employment has caused irreparable harm to her reputation and career are simply not of a magnitude to justify a preliminary injunction.").

In this case, the plaintiff testified at the hearing before the undersigned that he would suffer lost income and damage to his reputation. As already discussed by the court, these two elements of damage are insufficient to support an award of injunctive relief. Beyond those two aspects of damage, however, Dr. Smith has presented little proof on this Canal Authority requirement. The only other proof before the court of damage were conclusory statements by the plaintiff that the person hired by the school district to fill his position lacks the experience to properly perform in the position of principal. The implication from this proof is that, without Dr. Smith acting in the position of principal at Okolona High School, the school and its students will suffer harm. This

assertion, standing alone, is also insufficient to establish the type of “irreparable harm” sufficient to justify the extraordinary remedy of an injunction. It is some showing of “irreparable harm” to Dr. Smith that must be demonstrated to this court, and not to third persons not parties to this lawsuit. Dr. Smith has failed to demonstrate to this court that the remedies available to him should he prevail will be insufficient to make him whole in this cause. As such, the court need not address whether the plaintiff has met the remaining Canal Authority factors.

### III. Conclusion

After careful consideration of the file and record in this matter, the submissions of the parties and the evidence received by this court during the hearing conducted on this matter by the undersigned on July 29, 1997, the court is of the opinion that the plaintiff has failed to adequately demonstrate all of the essential Canal Authority prerequisites entitling him to the relief he seeks today. While Dr. Smith may ultimately prevail on some or all of his claims before this court, the undersigned cannot say that he has adequately proven his entitlement to injunctive relief at this stage of the proceedings. Therefore, the motions of the plaintiff for a temporary restraining order and for a preliminary injunction shall be denied.

A separate order in accordance with this opinion shall issue this day.

This the \_\_\_\_\_ day of April 2001.

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United States District Judge

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DEFENDANTS

ORDER DENYING MOTIONS  
FOR INJUNCTIVE RELIEF

Pursuant to a memorandum opinion issued this day, it is hereby ORDERED THAT:

- ) the plaintiff's motion for a temporary restraining order is hereby DENIED;
- ) the plaintiff's motion for a preliminary injunction is hereby DENIED.

SO ORDERED, this the \_\_\_\_\_ day of August 1997.

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United States District Judge